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Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 03-164
Table of Allotments,	)	RM-10737
FM Broadcast Stations.	)	
(Montgomery and Marmet, West Virginia)	)	

**REPORT AND ORDER**  
**(Proceeding Terminated)**

**Adopted: January 14, 2004**

**Released: January 16, 2004**

By the Assistant Chief, Audio Division:

1. The Audio Division has before it the *Notice of Proposed Rule Making* ("Notice")<sup>1</sup> issued in response to a petition for rule making filed by Educational Media Foundation ("Petitioner"), licensee of Station WKVW(FM) ("WKVW"), Channel 227A, Montgomery, West Virginia. Petitioner requests the reallocation of Channel 227A to Marmet, West Virginia, as that community's first local aural transmission service, and the modification of Station WKVW's license to specify Marmet as its community of license. Petitioner filed comments reaffirming its proposal and reiterating its intent to implement its proposal if the Commission reallocates Channel 227A to Marmet. No other party filed comments or any other pleading in this proceeding. For the reasons stated below, we grant Petitioner's request to change its community of license to Marmet.

2. Petitioner filed its request to reallocate Channel 227A to Marmet, West Virginia, pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.<sup>2</sup>

3. We believe that the public interest would be served by reallocating Channel 227A from Montgomery, West Virginia, to Marmet, West Virginia, because Marmet would receive its first local aural transmission service. The reallocation of Channel 227A to Marmet would not deprive Montgomery of its sole local aural transmission outlet because Montgomery would continue to be served by AM Station WMON. Since the transmitter site for Station WKVW will not be relocated to accommodate Petitioner's request to reallocate Channel 227A from Montgomery to Marmet, no gain or loss areas will be created. Therefore, in accordance with the provisions of Section 1.420(i) of the Commission's Rules, we will modify the license of Station WKVW to specify operation on Channel 227A at Marmet, West Virginia.

<sup>1</sup> *Montgomery and Marmet, West Virginia*, 18 FCC Rcd 14385 (2003).

<sup>2</sup> See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

4. Channel 227A can be allotted to Marmet, West Virginia, in conformity with the technical requirements of the Commission's Rules, utilizing Petitioner's requested site at the coordinates of 38-13-09 North Latitude and 81-25-05 West Longitude, with a site restriction of 13.4 kilometers (8.3 miles) east of Marmet, West Virginia.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective March 1, 2004, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

<u>Community</u>	<u>Channel Number</u>
Marmet, West Virginia	227A
Montgomery, West Virginia	-----

6. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Educational Media Foundation, for Station WKVW(FM), Montgomery, West Virginia, IS MODIFIED to specify operation on Channel 227A at Marmet, West Virginia, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620 of the Commission's Rules.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules, unless the proposed facilities are categorically excluded from environmental processing.

7. Pursuant to Commission Rule Section 1.1104(3)(l), any party seeking a change of community of license of an FM allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Educational Media Foundation, licensee of Station WKVW(FM), is required to submit a rule making fee in addition to the fee required for the application to effect the change in community of license.

8. IT IS FURTHER ORDERED That this proceeding IS TERMINATED.

9. For further information concerning the above, contact R. Barthen Gorman, Media Bureau, (202) 418-2180.

**FEDERAL COMMUNICATIONS COMMISSION**

John A. Karousos  
Assistant Chief, Audio Division  
Media Bureau